

On May 5, 2008 appellant, then a 26-year-old mail handler, filed an occupational disease claim alleging that she sustained shooting pains in her left forearm and right shoulder due to lifting and pushing during the course of her federal employment.

In a form dated May 2, 2008 listing emergency discharge instructions, a nurse practitioner advised that appellant was unable to work from May 2 to 6, 2008. The nurse provided her with aftercare instructions for the condition of radiculopathy.

By letter dated May 14, 2008, the Office requested additional factual and medical information from appellant, including a comprehensive medical report from a physician addressing how factors of her federal employment caused or contributed to a diagnosed condition.

In a report dated May 7, 2008, a nurse practitioner found that appellant could resume work in three days with restrictions on lifting, pushing and pulling until evaluated by an orthopedist. In a physical therapy referral dated May 23, 2008, Dr. William K. Fleming, a Board-certified orthopedic surgeon, diagnosed lumbar sprain and provided treatment recommendations.

In a statement dated May 30, 2008, appellant related that her injury occurred on May 1, 2008 when she lifted mail from a bulk mail container. She lifted the tray of mail over her head and felt a “sharp pain go down my left forearm to my left waist.” The next day the pain was worse and appellant asked her supervisor if she could go to the emergency room. Appellant initially believed that she had experienced a traumatic injury but then realized that she had previously experienced similar pain.

By decision dated June 17, 2008, the Office denied the claim on the grounds that the medical evidence was insufficient to establish that she sustained a diagnosed condition causally related to factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;⁴ (2) a

¹ 5 U.S.C. §§ 8101-8193.

² *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *See Ellen L. Noble*, 55 ECAB 530 (2004).

⁴ *Michael R. Shaffer*, 55 ECAB 386 (2004).

factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁵ and (3) medical evidence establishing the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.⁷ The opinion of the physician must be based on a complete factual and medical background of the claimant,⁸ must be one of reasonable medical certainty⁹ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

ANALYSIS

Appellant attributed her radiculopathy condition to lifting and pushing mail in the course of her federal employment. The Office accepted the occurrence of the claimed employment factors. The issue therefore is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

Appellant submitted May 2 and 7, 2008 reports from a physician's assistant. The reports of a physician's assistant, however, are entitled to no weight as a physician's assistant is not a "physician" as defined by section 8102(2) of the Act.¹¹

In a physical therapy referral dated May 23, 2008, Dr. Fleming diagnosed lumbar sprain and provided treatment recommendations. He did not, however, address causation or list any findings on examination. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.¹²

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between her claimed condition and her

⁵ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁶ *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁷ *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹¹ *See* 5 U.S.C. § 8101(2); *Allen C. Hundley*, 53 ECAB 551 (2002).

¹² *Conard Hightower*, 54 ECAB 796 (2003).

employment.¹³ Appellant must submit a physician's report in which the physician reviews those factors of employment identified by her as causing his condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his or her opinion.¹⁴ Appellant failed to submit such evidence and therefore failed to discharge her burden of proof.

CONCLUSION

The Board finds that appellant has not established that she sustained an injury to her left forearm and right shoulder due to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 17, 2008 is affirmed.

Issued: June 15, 2009
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹³ *D.D.*, 57 ECAB 734 (2006); *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹⁴ *Robert Broome*, 55 ECAB 339 (2004).